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MECHANISMS FOR CONSULTATIONS WITH NON-GOVERNMENTAL ORGANIZATIONS

Note by the secretariat

I. INTRODUCTION

A. Mandate

1. In its decision 6/C.P.1, annex III, the Conference of the Parties (COP) decided on the organization of a workshop which should discuss the need for, and possible scope, structure, membership and work plans of non-governmental advisory committees and/or a business consultative mechanism and report recommendations to the COP at its second session (FCCC/CP/1995/7/Add.1).

2. Such a workshop was held on 2 March 1996. Its report was presented in document FCCC/SBSTA/1996/11. At its third session, the Subsidiary Body for Scientific and Technological Advice (SBSTA) welcomed the contributions made at this workshop and noted that consensus on mechanisms for consultation had not been reached among non-governmental organizations (NGOs) participating in the workshop. The SBSTA proposed that, for the time being, emphasis should be given to improving existing consultative processes (FCCC/SBSTA/1996/13, para. 50 (c)).

3. In light of the above, the SBSTA proposed that the secretariat explore further with non-governmental groups current mechanisms and procedures for consultation, with a view to establishing how they might be made more efficient. The conclusions of the SBSTA on this matter envisaged that it could consider at its fourth session a paper prepared on this basis,

with the aim of reaching a conclusive decision on the creation of a consultative mechanism (FCCC/SBSTA/1996/13, para. 50 (d)).

4. The secretariat was unable to submit such a paper to the fourth or the fifth sessions of the SBSTA. The subject of the paper was on the agenda of the fifth session, and deep regret at this delay was expressed. The sentiment was shared by the secretariat. On that occasion, the SBSTA also invited the Subsidiary Body for Implementation (SBI) to take over the consideration of this matter (FCCC/SBSTA/1997/4, para. 37). The present note responds to the request of the SBSTA and is submitted to the SBI, in accordance with the guidance of that body.

B. Scope

5. The non-governmental community that participates in the Convention process is large, and diverse in its interests and opinions. Eliciting views in a systematic manner, as a basis for the present note, was not a simple task. In attempting to do so, the secretariat focused its consultations on the three main non-governmental constituencies that have so far emerged from the Convention process. These are business and industry organizations, environmental groups, and local government and municipal authorities.

6. In exploring the basis for this paper, the secretariat enlisted the help of the Global Environment Information Centre (GEIC) - a joint project of the United Nations University and the Environment Agency of Japan. A report on the consultations undertaken by the GEIC was the principal input to this paper. It will be distributed as FCCC/SBI/1997/Misc. 6 (English only). However, the secretariat has exercised its judgement in drawing upon the range of proposals and has supplemented that report by some further exchanges with non-governmental representatives.

7. This paper advances a number of proposals which have emerged from the above-mentioned consultations accompanied by comments from the secretariat. While the proposals reflect many commonalities, there are also many differences. There is clearly a common interest in all quarters of the non-governmental community to communicate their expertise and information to the Parties, as well as their "unfiltered" views on the range of political, socio-economic and technological issues that are addressed under the UNFCCC. However, the proposals differ greatly in the breadth of support which they command among non-governmental organizations and the extent to which they cut across constituency boundaries. The present paper responds to the request of the SBSTA and is submitted to the SBI, in accordance with the guidance of that body.

8. The proposals in this paper are organized under two main headings. Some of these envisage the improvement of existing mechanisms for consultation and relate mainly to better access to the Convention process, while others seek to establish new mechanisms. Broadly speaking, the proposals in the first category could be implemented without significant additional costs to the secretariat. Those in the second category would require some staff

and/or other resources to supplement those requested in the core budget of the secretariat in 1998-99. If any of the latter proposals were to be pursued, additional funding would have to be sought through the Trust Fund for Supplementary Activities.

9. In addition to these proposals, the exercise mandated by the SBSTA has generated some reflection within the secretariat on the principles of the relationship between the Parties and the NGOs. These thoughts are conveyed in a note by the Executive Secretary, as an addendum to the present document (FCCC/1997/SBI/1997/14, Add.1).

C. Possible action by the SBI

10. The Subsidiary Body for Implementation (SBI) is invited to consider the proposals in this paper. It may wish to give guidance on the pursuit of these proposals by the secretariat and their non-governmental proponents, and also, as appropriate, to invite the COP Bureau and or other subsidiary bodies to act upon them. In doing so, it should bear in mind the staffing and financial implications of some of these proposals.

11. The SBI may also wish to discuss the issues raised in the addendum to this note and consider whether the ideas therein need further elaboration, with a view to possible action by COP 3.

II. IMPROVEMENT OF EXISTING MECHANISMS

A. Access by NGOs to meetings of Convention bodies

12. A number of NGOs have requested improved access to the floor during meetings of Convention bodies, following the practice in the SBSTA. They also seek the opportunity to intervene in the discussion of specific agenda items. Some have also requested access to informal negotiating meetings.

13. Currently, NGO representatives are regularly invited to make general statements to plenary meetings of Convention bodies. Otherwise, they are not normally given access to the floor of a conference room when a meeting is in progress. This separation, initiated by the Bureau at COP 1, was originally inspired by the perception that access by NGOs to delegations during meetings could be abused. The Bureau envisaged, however, that each Chairperson could exercise discretion in granting access.

14. Subsequently, the Chairman of the SBSTA, with the concurrence of that body, has decided that the three NGO constituencies mentioned in paragraph 5 above can have a seat with a nameplate, on the floor of that body, and has allowed interventions on specific point of its agenda.

15. Access to negotiating meetings, such as informal consultations or contact groups is also left to the discretion of the respective Chairpersons. Currently, observers, including NGOs, are not given access to such meetings. This practice corresponds to the conventional view that observer organizations do not have a negotiating role in an intergovernmental process. As in the case of access to the floor, this view was fortified by concerns that the presence of observers in a negotiating room could interfere with the negotiating process.

16. In seeking information on relevant practice within the Intergovernmental Panel on Climate Change (IPCC), the secretariat has been informed that observers, subject to the discretion of the Chairman, are allowed to intervene as experts on matters of direct relevance to an agenda item. However, they are not allowed to intervene during the approval of technical reports nor in their adoption.

17. The SBI may wish to consider whether it would be desirable that the practice instituted in the SBSTA be generalized, regarding seating and interventions in the discussion of specific agenda items. In this case, the Chairman of the SBI could advise the COP Bureau accordingly, and, meanwhile, propose that the SBI adopt that practice itself. This would respond to the request for better access to the floor and to discussion, but not to the request for access to negotiations.

B. Access by NGOs to documentation

18. A number of NGOs highlighted the need for the timely provision of official documents and other information in print and in electronic form.

19. In response to this, the secretariat could send to the coordinator of each identified NGO constituency one set of all official documents in the original language, in print and/or electronic versions, for further dissemination within the constituency. The efficacy of this service would depend on the clear identification of the channels of communications. Its costs could be absorbed by the secretariat, as long as the number of NGO constituencies remained small.

20. The SBI may wish to endorse this suggestion and give guidance on the identification of NGO constituencies for this purpose.

C. Participation by NGOs in national processes

21. Some environmental NGOs, citing chapter 27 of Agenda 21, have stressed the importance of establishing or enhancing mechanisms and procedures to draw on their expertise and views in policy and programme design, implementation and evaluation. They envisage for themselves a political role, through inclusion in national delegations, and a role as experts, through participation in the in-depth reviews of national communications as well as in national capacity building programmes in non-Annex I Parties. The local authorities constituency stated its readiness to assist Parties in the assessment and monitoring of

greenhouse gas emissions, based on its experience with the implementation of innovative policies and measures for the reduction of such emissions.

22. The inclusion of NGO representatives in national delegations, and their participation as experts in national climate programmes, in-depth reviews and capacity building, is not a novelty. These are matters on which NGOs should seek action by Parties in the countries in which they operate. The SBI may wish to consider whether it should encourage such action.

D. Broader participation in the Convention

23. Both the environmental and the business and industry constituencies have urged broader participation of different economic interests, which could benefit the Convention and its implementation. A few NGOs from the business and industry constituency specifically stressed the need to encourage the participation of all sectors of business, industry, labour and agriculture from both Annex I and non-Annex I Parties. A few NGOs envisaged a possible funding mechanism or arrangement for this purpose.

24. While access to broader participation is open, there is no Convention funding available to finance it. The SBI may wish to seek further views from NGOs and from Parties as to the feasibility of such funding.

III. POSSIBLE NEW MECHANISMS

A. Business Consultative Mechanism

25. The business and industry constituency, which also includes private sector financial institutions, has reached a consensus in favour of the improvement of current consultation mechanisms with Parties through the establishment of a "Business Consultative Mechanism" (BCM). This consensus was evident at the March 1996 workshop (see Principles in annex I of FCCC/SBSTA/1996/11) and confirmed by subsequent consultations. This mechanism is seen as further enhancing the ability of these NGOs to provide the full range of their "unfiltered" views on the various issues under consideration in the Convention bodies.

26. Essentially, the BCM would be built around two focal points, one in the business and industry constituency and one in the secretariat. These would communicate with each other and constitute the channel for requests for information from the Parties to this constituency, and for responses to such requests from the constituency. The secretariat would distribute this information to all Parties in a suitable format, subject to some limits on the volume of material to be transmitted via this mechanism. The business and industry NGOs would bear the costs of supplying information to the Parties, while the Parties would assume the costs of its distribution by the secretariat.

27. The provision of an active secretariat focal point for the BCM, as well as the dissemination of material, are not provided for in the proposed programme budget for 1998-1999 and would require supplementary funding.

B. Soliciting NGO Views

28. Some environmental NGOs have requested that their views be solicited formally whenever governments are invited to submit their views to Convention bodies.

29. The general practice hitherto has been for Convention bodies to solicit submissions from Parties and for the secretariat to compile and circulate them without translation, in "Miscellaneous" documents. The AG13 departed from this practice in the exploratory phase of its work by seeking inputs from observer organizations as well. Occasional submissions by NGOs have been drawn to the attention of the Convention bodies but not reproduced by the secretariat. The systematic soliciting of views from NGOs would add a new dimension to an established practice.

30. This request raises the question of whether Parties wish to seek the views of NGOs routinely, in a formal manner. The question is, of course, addressed to all Convention bodies. The SBI may wish to consider the merits of the question and advise other bodies, through the COP Bureau, of its conclusion.

31. If the answer to the question is positive, it would be economical to implement this by soliciting a consolidated view from each identified NGO constituency. It would be up to each constituency coordinator to assemble and reconcile views into one submission. Even so, it might be prudent to set a limit on the length of such submissions. The secretariat would need guidance from the SBI on the constituencies from which views should be sought.

C. Policy Dialogue Forums

32. A few environmental NGOs suggested that the secretariat organize and host "policy dialogue forums" on themes that would help advance the implementation of the Convention. Such forums would be open to government delegates and representatives of observer organizations participating in their personal capacities. The aim would be to discuss specific issues on the agenda of the Convention bodies from the perspectives of the NGO constituencies, thereby providing alternative inputs into the Convention process.

33. If this were to be a regular activity of the secretariat, supplementary funding would be required.

34. The SBI is invited to express its views on this proposal.

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